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NOTES ON MUNICIPAL GOVERNMENT.

[This department of the *ANNALS* will endeavor to place before the members of the Academy matters of interest which serve to illustrate the municipal activity of the larger cities of Europe and America. Among the contributors are James W. Pryor, Esq., Secretary City Club, New York City; Sylvester Baxter, Esq., Boston *Herald*, Boston; Samuel B. Capen, Esq., President Municipal League, Boston; A. L. Crocker, Esq., President Board of Trade, Minneapolis; Victor Rosewater, Ph. D., Omaha *Bee*, Omaha; Professor John Henry Gray, Chairman Committee on Municipal Affairs, Civic Federation, Chicago; Jerome H. Raymond, Ph. D., University of Wisconsin; F. L. Siddons, Esq., Washington, D. C.; Donald B. MacLaurin, Esq., President Civic Federation, Detroit, Mich.; Professor A. C. Richardson, Buffalo, N. Y.; M. B. May, Esq., Cincinnati, Ohio; W. B. Spencer, Esq., New Orleans; William H. Parry, Esq., Comptroller City of Seattle, Wash.]

AMERICAN CITIES.

New York.—The two commissions appointed by the Governor to frame general charters for cities of the second and third classes have been busily engaged in preparing their reports for the present session of the Legislature. The necessity for the codification of the present legislation relating to cities of these classes was a logical outcome of the constitutional amendments of 1895, which greatly modified the system of special legislation for cities by adopting a distinction between general and special city laws. The Constitution divides the cities of the State into three classes—those with a population of 250,000, or over, constituting the first class; those with a population between 50,000 and 250,000, the second, and those with a population less than 50,000, the third. The term "special city law" is defined in the Constitution as one which applies to less than all the cities of a class. Such laws must first be submitted to the city or cities to which they relate and, if rejected by such city, must again be passed by both branches of the Legislature. Up to the present time every city has received a special charter and the great diversity of legislation on this subject makes it exceedingly difficult for the Legislature to determine the exact effect of legislation for cities. The commissions that have been at work upon these subjects have gone beyond mere consolidation and codification and have considered the question of the most desirable form of charter for such cities. The commission charged with the consideration of cities of the second class has been seriously considering whether it would be possible to change the ordinary system of municipal incorporation by substituting a general for the

usual specific grant of powers to cities of that class, in other words, to give to the municipality unrestricted power within the limits of State law. This means the adoption of a system of incorporation similar in many respects to the German system. It is extremely doubtful whether the courts would so far depart from their present attitude as to give full effect to a plan of this nature.

Municipal Government Board. One of the results of this readjustment of municipal legislation in New York State is a proposition of the Hon. Frederick W. Holls, to establish a State Municipal Board of Control. A bill embodying this idea has been framed and is to be presented at the present session of the Legislature. The principle of this plan is one which is beginning to receive recognition in some of the American States and which has already been fully developed in England and Germany. It means the substitution of a system of administrative control for the present uncertain central control exercised directly by the State Legislature. The contrast between the two systems is clearly brought out in Professor Goodnow's work on "Municipal Home Rule." The first steps in this development in the United States are described in Professor Commons' paper in the ANNALS for May, 1895, on "State Supervision for Cities." *

The bill as presented provides for a board to consist of the Comptroller, Attorney General, and five competent persons to be appointed by the Governor, by and with the advice of the Senate. The term of office is to be five years. Section IV gives to the board such general supervision of the municipal administration of the cities of the second and third class as will enable them to examine into the government of such cities, and keep themselves informed as to their condition, with special reference to the compliance of city officials with the constitution and laws of the State. "It shall also be the duty of such Board, whenever, in their opinion, public interests require it, to examine the accounts of such cities, or any of them, or of any of the officers or employes of such cities, and the result of such investigations shall be reported upon in the annual report of the board to the Legislature." They are also to make recommendation to the Legislature as to any desirable changes in the form of city administration; are given power to prescribe the form of annual report to be made by the Mayor or any other municipal department to the board. It is furthermore made their duty to certify as to the legality, regularity, and form of municipal bonds, and no such bonds shall be issued without such certificate. It is the intention of the framer of the measure that men

* Vol. v, p. 865, issued in separate form as Publication No. 146, of the American Academy of Political and Social Science. Price, 15 cents.

of the very highest ability be selected for these important positions and to attain this end relatively high salaries are to be fixed.

Report of Commission on Legislative Procedure. The commission, appointed to examine into legislative procedure and to recommend such changes as might be found necessary, has presented its conclusions to the Governor. The report dwells upon the fact that, under the present system it is impossible for the members of either house to examine the enormous mass of bills submitted for their inspection. In the Legislature of 1895, for instance, over 3000 bills were introduced. In examining the nature of these proposed measures, the commission finds that by far the greater number affected particular localities, in other words, were local or special in their nature. One of the most pressing needs, therefore, is to place such bills in a separate schedule and to adopt special procedure for their consideration. In recommending such a system the commission turns to the experience of England and endeavors to adopt the system of "private bill" legislation to American legislative procedure. They recommend that all private and local bills, including bills which relate to the municipality, be filed before the beginning of the Legislative session or, at least, thirty days before their presentation to the Legislature. They suggest that the committee to which such bills are referred shall fix a day for a public hearing of the bill, and be given power to take testimony under oath and to compel the attendance of witnesses. In this way a kind of judicial examination as to the merits of the bill, the interests involved, the objections thereto, is guaranteed. In the report, the commission gives some account of the experience of other States and cites a large number of constitutional provisions relating to methods of procedure.

Budget, 1895. The Board of Estimate and Apportionment of New York City has completed the budget for 1896, which shows an increase over that of 1895. The total appropriations for the year amount to about \$46,500,000, of which nearly \$44,000,000 must be raised by taxation. In looking over the various items of expenditure, one is impressed by the large appropriations made to such departments as street cleaning, fire and police. Thus for the work of the present year, the department of street cleaning is given over \$3,000,000. In this respect Philadelphia, with twice the length of streets and an appropriation of about \$800,000 stands in direct contrast. The experience of New York has shown, however, that efficient street cleaning is an extremely expensive service. The care and thoroughness which has characterized the administration of this department in New York City during the past year, has been little short of a revelation to its inhabitants. For the first time in its history the streets of the city have been

kept clean. The impression which this fact has made upon the city authorities, contributed, no doubt, to the readiness with which this appropriation, representing an increase of nearly \$650,000 over the preceding year, was made.

Tenement House Reform. The Tenement House Commission, which recently presented an elaborate report on the conditions of tenement dwellings in New York City, has proposed a measure to the present Legislature which involves a great extension of the city's right of eminent domain. The bill proposes to give to the city, authority to condemn and remove all rear tenements for the purpose of converting the sites thus condemned into court yards, to be used by tenants for recreation and breathing places. An annual appropriation of \$5,000,000 is to be provided to carry out the scheme. Other provisions to compel landlords to make necessary sanitary improvements are inserted in the bill. It will be interesting to see whether the constitutionality of such an act, if passed, will be sustained by the courts; whether the condemnation of rear tenements will be construed as such a "public use as will justify the exercise of the right of eminent domain." If any conclusions may be drawn from the present position of the State and federal courts, the answer would probably be in the negative. With the growth of our large cities, however, and the increasing difficulties which this problem of the housing of the poor involves, it is extremely probable that the courts will gradually be brought to a broader interpretation of the term "public use," just as they have been compelled to broaden the application of the principle of "public policy." It is in pressing social problems such as these, that the change is likely to be first shown.

Consolidation. The question of the consolidation of New York and Brooklyn is again before the Legislature. In 1895, in accordance with the resolution of the Legislature, this question was submitted to the vote of the people of both cities. The result was a majority in favor of the proposition, although as regards Brooklyn, the majority was extremely small. During the year which has elapsed, those opposed to consolidation claim that popular sentiment has changed considerably, and that another election would result in a majority opposed to the scheme. In accordance with the wish of some Brooklyn and New York City members, a joint legislative committee has been appointed to examine into the question of consolidation. This committee gave a public hearing the seventeenth and eighteenth of January. Those opposed to any such measure contended that but one-third of the electors participated in the vote of 1894, which cannot, therefore, be regarded as a final decision. The friends of consolidation dwell mainly upon the commercial advantages which must accrue from a

union of these great industrial and commercial centres. The indication at present seems to be that the question will again be submitted to the people before any further action is taken by the Legislature.

Philadelphia.—A recent decision of the Supreme Court has brought to the city, authoritative confirmation of the chaotic condition of street railway franchise grants. The power which the State Legislature undoubtedly may exercise, in the absence of constitutional restrictions, over the city's streets, was made use of to a considerable extent at an earlier period in the city's history. In 1869, the right of way on two of the important streets in the city was granted to a private corporation without the consent of the municipality. The recent attempt of the city to impose the duty of repaving on the company, a duty contained in a general ordinance applicable to all companies, has been adjudged by the Supreme Court to be beyond the power of the municipality, inasmuch as the terms of the act of the Legislature granting the right of way could not be so changed as to place additional burdens on the company.

Buffalo.*—The Niagara Falls Power Company has filed its acceptance of the franchise for the introduction of electric power into Buffalo. The filing of this notice makes the grant effective and its terms require the company to deliver at least 10,000 horse power by June 1, 1897.

Railway Franchises. In November, 1895, a new corporation—the Buffalo Traction Company—applied to the City Council for a franchise to build and operate sixty-six miles of new street railway, of which thirty-two were parallel to the existing lines of the Buffalo Railway Company. The latter vigorously opposed the new grant, and, at a hearing before the Board of Aldermen and before the Committee on Streets, remonstrances were heard. The State law requires that before a new railroad can be constructed the State Railway Commission must issue to the corporation a certificate that "public necessity and convenience" require its construction. The Commission held such hearing, but reserved its decision.

A second hearing was had before the Board of Aldermen on the ground that the first had been illegal for want of proper notice. At this meeting the proposed duration of the franchise (sixty-six years) was severely criticised. In spite of such remonstrances, however, the Board of Aldermen passed the ordinance in the form proposed by the Traction Company. It then went to the Board of Councilmen, which held its last meeting for 1895 on December 24, when it was passed without debate.

* Communication of Mr. A. L. Richardson.

The Mayor held the ordinance until the meeting of the newly elected Board of Aldermen early in January, 1896, and sent to them a communication stating that he had obtained some additional concessions from the Traction Company. In this agreement with the Mayor it was provided that the proposed changes, one of which was the reduction of the term of the franchise from sixty-six to fifty years, when accepted by the Councils, should have the same effect as if incorporated in the original franchise. The Board of Aldermen disregarded the fact that the original ordinance was no longer before them. They passed a resolution (one member only voting nay) accepting the proposal of the Traction Company and changing the grant, *then in the hands of the Mayor*, to conform to it.

Under the charter the Board of Councilmen must approve every measure passed by the Aldermen before it goes to the Mayor, and they may amend it, if they see fit, while they cannot originate measures of any kind. Thus the Councilmen are intended to act as a check on hasty legislation by the Aldermen, and accordingly their regular meetings are held two days later than those of the latter. But, before sending to the Aldermen the communication above referred to, on January 6, the Mayor had called a special meeting of the Board of Councilmen *for the evening of that day* to take action on proposed amendments to the grant passed by the Common Council of 1895 and then in his hands for approval or disapproval. This was also a new board, containing several new members who had decided opinions about voting away valuable franchises without due consideration. They did not propose to be "railroaded" in this manner, and therefore remained away from the special meeting, which thus failed of a quorum. At ten o'clock that night, being the last night on which he could act, the Mayor signed the franchise as originally sent to him.

Fortunately for the city, however, the State Railroad Commissioners came to the rescue of its true interests on January 23d by denying the application of the Traction Company for a certificate that "public necessity and convenience" require the construction of its road. This makes the whole scheme abortive, and proceedings in the courts have since been begun to enjoin both the city and the company from taking any further proceedings under the so-called franchise.

Cincinnati.*—Through the efforts of the Cincinnati Municipal Civil Service Reform Association a bill has been introduced into the Ohio Legislature to regulate the selection and tenure of subordinate officials of cities of the first class (Cincinnati and Cleveland) and of the first and second grades of the second class (Columbus, Dayton and Toledo).

*Communication of Max B. May, Esq.

The main provisions of the act are as follows : Whenever 1000 votes of the city of Cincinnati or Cleveland, and 500 votes of Columbus, Dayton or Toledo petition the Board of Elections to that effect the proposition to adopt civil service rules shall be submitted to the popular vote, and in case of defeat such proposition shall upon application be submitted at succeeding municipal elections. If the proposition is adopted, the Mayor shall within thirty days appoint a Civil Service Commission of three, the members of which shall hold office for three years and not more than two of whom shall be members of the same political party.

This commission shall classify all the offices and places of employment in the service of the city, including the teachers of the public schools, and no one shall be appointed to any office or place in the classified service unless his name appears upon the register prepared from the returns of examinations held by the commission, such names being placed upon the register in order of relative excellence.

The examinations shall be public, competitive and free to all citizens of Ohio with specified limitations as to age, residence, health, habits and moral character, and shall relate to matters which will fairly test the relative capacity of the candidates to discharge the duties of the respective positions. The examination may include tests in physical qualification, health and manual skill, but no questions of a political or religious nature shall be asked.

No officer or employe of the classified service shall be removed or discharged except for some cause relating to his fitness to perform the duties of his office. Such cause shall be determined by the appointing power and reported in writing to the Commission, and shall not be made public except upon demand of the discharged.

The bill does not apply to officials now elected by the people nor to those appointed by Council, the courts or the Governor ; nor to members of the city boards, including the heads or chiefs of any division thereof relating to engineering, water works, street cleaning, fire department, parks, Superintendent of Public Schools, police, law officers and one private secretary of the mayor.

The law contains ample provisions for its effective execution, the penalties in cases of violation being especially severe. In short it is a sort of local option in civil service for the cities named above. It will not, if adopted, affect any officials now in office. Great efforts will be made to have the law adopted at this session of the Legislature. If passed it cannot be submitted to the electors of Cincinnati until April, 1897. In its general features the law was modeled after the Illinois Act, which was recently adopted, and is now in force at

Chicago, though many provisions of the Federal law, and those of New York and Massachusetts were followed.

Taxation. The question of taxation is one of the pressing problems now before the city. In Ohio personalty as well as realty is taxable, and in order to ensure an honest return of personalty, the Legislature several years ago enacted a law authorizing the County Commissioners to contract with a Tax Inquisitor for the listing of property improperly or fraudulently omitted from the taxpayer's return. The County Auditor must list all omitted property so reported by the Inquisitor, with a penalty of 50 per cent. The Tax Inquisitor is compensated by receiving 25 per cent of all taxes collected through his efforts. This law is commonly known as the Morgenthaler law, from the Tax Inquisitor. Many people have been unfortunate enough to become the victims of his ingenuity and skill, and because of his duties and constant watchfulness, many of the more wealthy citizens, those who have large personal estates, have become citizens of other States, though they still remain in this city. The result has been that the amount of personalty listed for taxation has steadily decreased within the past few years, and the tax lists do not increase in proportion to the population.

Under existing laws, city and county bonds, usually fives and fours, which command a premium, are taxable, and in this city the rate has been 2.8 per cent and 2.7 per cent per \$100. Then again the foreign corporations doing business here are taxed upon the property in possession, and are compelled to pay a privilege tax besides, and in addition to this local stockholders must list such stock for taxation.

The whole question of taxation was recently discussed by the Commercial Club, an organization composed of prominent citizens of various vocations. A report recommending to the Legislature among other things the repeal of the Morgenthaler law and the abolition of taxes upon the stock of corporations listing property in this State for taxation, and of the taxes on State, county and municipal bonds was adopted. The report likewise recommended the abolition of all taxes on personalty, substituting therefore a system of licenses based on gross sales supplemented by a tax on realty exclusively.

The Board of City Supervisors, who have the final authority in the matter of taxation, urges in an elaborate and instructive report recently issued, the necessity of an immediate reform of the tax laws. The more important recommendations are those demanding that brokers and agents of foreign manufacturers be licensed in proportion to business done; that commission men, professional men and patent medicine dealers should be licensed; that the tax rate on county and municipal securities and mortgage notes be fixed at one-tenth of one

per cent, "the question being whether a fraction of a loaf should be accepted or no bread at all."

All relief in this matter must come from the Legislature, which is now in session. As the country dominates the city, it is doubtful whether anything will be done. Bills providing for the repeal of the Morgenthaler law and for the call of a constitutional convention to consider primarily the tax question have already been introduced.

An agitation for an increased park area and the acquisition of property for parks, public squares, parkways, boulevards and recreation grounds has been begun by some of the more public spirited citizens. Nothing in this direction can be accomplished without legislative aid, and it is quite probable that legislation for this purpose will be pressed during the winter.

South Carolina.—The new constitution which went into effect on the thirty-first of December, 1895, contains several provisions affecting directly and indirectly the form and operation of the system of municipal government in the State. Reference has been made on page 131 of the present number of the *ANNALS* to the electoral qualifications which will considerably reduce the registration lists in cities. As to provisions directly affecting cities, we find, in the first place, a clause contained in Article XI, which will prove quite a burden to the finances of many cities, which provides "that separate schools be provided for the children of the white and colored races, and no child of either race shall ever be permitted to attend school provided for the children of the other race."

The most important provision relating specifically to cities is intended to limit city authorities in the granting of franchise privileges. It provides that no such grant for railway, gas, water, telephone, telegraph, etc., be granted by the State Legislature without the consent of the local authorities. Furthermore, that "cities may acquire by construction or purchase, and may operate water-works systems, and plants for furnishing light, and may furnish water and light to individuals and firms or private corporations for reasonable compensation. Provided that no construction or purchase shall be made except upon a majority vote of the electors in said cities or towns who are qualified to vote." This section is another instance of a tendency which has become well marked in recent constitutions to insert provisions which were formerly placed in city charters, thus placing at least a portion of such charter beyond the ordinary law-making power of the State Legislature.

The constitution furthermore provides that no city or town shall create indebtedness beyond 8 per cent of its assessed valuation.

Also, that cities may exempt from taxation, except for school purposes, by special ordinance, manufactures which have been established in the locality for a period of five years. Such ordinance to be ratified by a majority of the electors. Another "referendum" provision relates to the issuance of city bonds, which question must be submitted to the people at a special election. As a condition precedent to such election there must be a petition to the General Assembly of a majority of the freeholders of the city.

FOREIGN CITIES.

Paris.—After a long-continued agitation, the Chamber of Deputies has finally passed a bill which seems the first step toward a change in the system of local and, more especially, municipal taxation in France. In the larger cities, the *octroi*, a tax on food products and other articles of every day use, has been the main element in the budget of the city. The fact that it had for so long a time been a part of the French system and that the people had thus become accustomed to the payments, was the main argument used in favor of its retention. Those opposed to the system have on their side all those arguments which relate to the evident inequality of such a system and to the undoubted burdening of the poorer classes. The act of November 20, 1895, requires municipalities to abolish the *octroi* tax on so-called hygienic drinks, namely, beer, wine and cider, and gives them the option of abolishing the *octroi* altogether. As a substitute it will be necessary to increase some of the existing taxes, such as the house duty, the land tax, etc. The city of Paris is exempted from the operation of this act. The reason for this is to be found in the fact that the needs of the enormous Parisian budget could not be met were this tax to be abolished. To supply the deficiency would mean an intolerable increase in the direct taxes. Thus in the budget for 1894 the *octroi* furnished \$29,851,910 out of a total income of \$58,171,264. The total income from taxation exclusive of the *octroi* was but \$6,538,420.

Rapid Transit. The question of a system of rapid transit has been before the city for a number of years. The relative merits of different propositions have been carefully considered, and it seems that some definite conclusions will be reached during the present year. The municipality, if the vote of the City Councils voices popular sentiment, is exceedingly anxious to undertake the construction and operation of the system. In a recent communication of the French Minister of Commerce to the City Council, he expresses his approval of such a plan, provided that a certain portion be completed before the year 1900.

This will be the first instance of municipal ownership and operation of street railways in continental Europe.

Glasgow.—The tendency to unification in the administration of English cities is illustrated by recent changes in the government of Glasgow. The decline of administrative efficiency of the municipalities of Great Britain during the eighteenth century made it impossible to entrust them with the new functions which the growth of population had made necessary. As a result, we find a series of parliamentary enactments, giving to special commissions, trusts, or other administrative bodies the control over special departments in the city government. After the Municipal Corporation Act of 1835 this power was gradually transferred to the reorganized City Councils. It was characteristic of English legislation, however, that, in the endeavor to adapt old forms to new conditions, the former special committees and commissions were retained in name and in law, although, in fact, merged in the Municipal Council. Thus, in the case of Glasgow, the Council was not given general authority over city affairs in its capacity as Town Council, but acted as Police Commissioners, Water Commissioners, Park Trustees, Improvement Trustees, etc. The Glasgow Corporation Act of 1895 abolished these distinctions and made the Council the general authority, both in law and fact, over these municipal functions. In addition, it greatly increased the present powers of the Council and thus brought about a closer harmony between municipal needs, form of government and scope of powers.

City Gas Works. During 1895 the city has reduced the price of gas from sixty to fifty-six cents per 1000 cubic feet. This represents a reduction of 50 per cent since 1870, when the price was \$1.14 per 1000 cubic feet. It has been the policy of the municipality, since this service has come under direct municipal control and management, to make the question of profit subordinate to the broader question of public welfare. In reducing the price of gas the city has had in view its more extended use by the laboring classes for lighting, heating and cooking purposes. To further facilitate this the department has entered into the business of selling and renting gas stoves. At present over 10,000 such stoves are rented by the city. With each reduction in price, the consumption has greatly increased and, as a result, the financial outcome has been most satisfactory. Within recent years the city has also entered into the electric light business and, during the last year, has increased the facilities by the addition of a new \$100,000 plant.

English Cities.—In the matter of municipal sanitation the English municipalities are rapidly overtaking the German cities which have hitherto taken the lead in this field of municipal activity. It is true

that in the former the necessity for immediate and definite action had become imperative within recent years. The laxity of control over building operations, drainage connections, etc., which characterized the English administration of the earlier decades of the century, had gradually developed conditions which threatened the health and safety of many of the cities. Nothing but the immediate danger of the situation could have induced Parliament to permit, and the municipal authorities to adopt, vast schemes for the expropriation of slum districts. The modern spirit of strict administrative control has been extended into other fields. Thus, in many of the cities, of which the most recent examples are the districts which go to make up London, one finds elaborate provisions for the protection of the population from contagious diseases. The parish of Islington, for instance, has recently constructed a complete disinfecting establishment and constructed a series of dwellings where families in which such disease has been prevalent may find temporary shelter. These institutions, in connection with the isolating hospitals, which have now become so general, have greatly reduced the danger of epidemics, at one time so disastrous among the poorer classes of the English population.